IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

CRP.No. 1304 of 1996(C)

RCA.64/1991 OF THE ADDL. RENT CONTROL APPELLATE AUTHORITY, ALAPPUZHA.

RCP.12/1990 OF RENT CONTROL COURT, ALAPPUZHA.

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PETITIONER/APPELLANT/RESPONDENT:

K.P. KARUNAKARAN, PROPRIETOR,
LADIES STORES, BUILDING NO. 1230/17,
MULLACKAL WARD, ALAPUZHA MURI,
-DO- VILLAGE.

BY ADV. SRI.M.V.BOSE.

RESPONDENT/RESPONDENT/PETITIONER:

THE BRAHMANA SAMOOHAM REG. NO. 47/74, ALAPPUZHA,
REPRESENTED BY ITS SECRETARY, P. VENKITA RAMA IYER,
RESIDING AT VENKITA RAMA NIVAS, THONDANKULANGARA,
ALAPUZHA.

BY ADV. SRI.B.S.KRISHNAN (SR.),
SRI.K.ANAND,
SMT.LATHA KRISHNAN.

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD 27/06/2007 ALONG WITH C.R.P NOS. 1446/1996 & 1431/1996, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON C.M.P. NO. 2349/1996 IN C.R.P. NO. 1304/1996

DISMISSED

SD/- J.B.KOSHY, JUDGE.

27/06/2007. **SD/- K.P.BALACHANDRAN, JUDGE.**

//TRUE COPY//

prv.

J.B.Koshy & K.P.Balachandran, JJ.

C.R.P.Nos.1304, 1431 & 1446 of 1996

COMMON ORDER

Balachandran, J.

Brahmana Samooham, Alappuzha is the respondent in all these revisions. They filed R.C.P.Nos.11/90, 12/90 and 13/90 for eviction of the respective tenants in occupation of the scheduled buildings therein. They are respectively the revision petitioners in C.R.P.Nos.1446/96, 1304/96 and 1431/96.

2. R.C.P.Nos.11/90, 12/90 and 13/90 were filed by the respondent Brahmana Samooham for eviction of the revision petitioners only on the ground of arrears of rent. They alleged that the revision petitioners, ever after the purchase of the scheduled buildings by them on 12.2.1977 under Exhibit A2 sale deed, have not paid rents in respect of the buildings occupied by them. The scheduled buildings in all these rent control

petitions formed part of a larger building under the same roof. The petitioners/tenants in all these rent control petitions denied the title of the Brahmana Samooham and hence the question as to whether denial of title of the respondent Brahmana Samooham was bona fide was considered together by the Rent Control Court. It was found that the plea of denial of title set up by the petitioners is not bona fide vide common order dated 31.8.1991.

3. The petitioners challenged the said finding by filing R.C.A.Nos.63/01, 64/01 and 65/01 and all the appeals were dismissed confirming the correctness of the finding entered into by the Rent Controller. The dispute as to the title of the respondent Brahmana Samooham was under challenge in O.S.No.2/87 on the file of the District Court, Alappuzha. But that was decided in favour of the respondent and it was, therefore, on the basis thereof, that the Rent Controller and the appellate authority held that denial of title of the respondent Brahmana Samooham was not bona fide.

The petitioners in these revisions were respectively defendants 4, 6 and 7 in O.S.No.2/87 and the respondent Brahmana Samooham was the eighth defendant. As against the judgment and decree in O.S.No.2/87 aforesaid, dismissing the said suit, A.S.No.238/96 was filed by the plaintiffs therein before this Court and that also was simultaneously heard along with these revisions.

4. Counsel on both sides submitted that the fate of these revisions can abide by the decision in A.S.No.238/96, as the dispute therein with respect to the title of the respondent was the contention taken up by the petitioners to contend that the respondent has no title to the scheduled buildings in the rent control petitions.

5. A.S.No.238/96 is dismissed on this day holding that the eighth respondent therein, who is the respondent in these revisions, has acquired valid title over the scheduled buildings under Exhibit A1 sale deed in their favour and that the suit is one instituted by the second and third

plaintiffs therein in collusion with the petitioners in these revisions. These revisions, in the circumstances, are devoid of merit.

In the result, confirming the correctness of the concurrent orders of the authorities below that denial of title of the respondent by the petitioners is not bona fide, we dismiss all these revisions with costs to the respondent. Parties shall appear before the Rent Control Court positively on 21.8.2007 and the Rent Control Court shall expedite the trial and dispose of the rent control petitions latest by the end of October 2007, the rent control petitions being of the year 1990. Registry shall forward the lower court records back to the Rent Control Court, so as to enable the cases being taken up on 21.8.2007.

(J.B.Koshy, Judge)

27th June, 2007

(K.P.Balachandran, Judge)

tkv

J.B.Koshy & K.P.Balachandran, JJ.

C.R.P.Nos.1304, 1431 & 1446 of 1996

COMMON ORDER

27th June, 2007